

1 Q Jackson Crossings? Okay. And you entered directly
2 through -- or strike that. Did you go in through a mall
3 entrance, or directly into the Secretary of State?

4 A I went directly into the Secretary of State office.

5 Q Had you been to the mall before?

6 A Yes.

7 Q Had you openly carried in the mall before?

8 A Yes.

9 Q Were you ever asked to leave the mall?

10 A No.

11 Q About how many people would you estimate were present in the
12 Secretary of State office?

13 A A total throughout the incident, or a rough average?

14 Q Just an average.

15 A I would say probably 50 to 60 people.

16 Q What did you do after you got your backpack and your book
17 bag, and returned inside the Secretary of State office?

18 A I believe I sat at a desk.

19 Q Were you seated at the time when the police arrived?

20 A No.

21 Q At some point, you got up from your seat?

22 A They responded when I'd been there an hour, yes.

23 Q Pardon me?

24 A I had been there an hour when the police arrived. I was not
25 seated the entire time.

1 when you were waiting to get your number?

2 **A** Well, they had -- no. After taking the number, they formed,
3 I believe they called it an "express line" to deal with
4 title issues and registration renewals, license renewals. I
5 sat through that line, and was told that my business was not
6 covered by that. I was there to get a new title.

7 **Q** A new title for what?

8 **A** My motorcycle, or one of my motorcycles.

9 **Q** So that's when you went and sat back down?

10 **A** I don't recall whether I sat down or went to stand in the
11 corner.

12 **Q** Well, when you went and stood in the corner, did you take
13 your backpack and your lunch box with you?

14 **A** I was not carrying them. They had been set down.

15 **Q** Pardon me?

16 **A** I was not carrying them. They had been set down.

17 **Q** At a desk?

18 **A** Yes.

19 **Q** At any time, when you entered the Secretary of State's
20 office, was your firearm ever in your backpack?

21 **A** No.

22 **Q** Was it ever in your book bag -- or your lunch box?

23 **A** No. At all times at the Secretary of State office, my
24 pistol was in a holster on my hip.

25 **Q** What kind of gun were you carrying?

1 A I was carrying an SW40VE.

2 Q Was it loaded?

3 A Yes.

4 Q Was there a round in the chamber?

5 A Yes.

6 Q And is it your testimony that at all times when you were at
7 the Secretary of State's office, it was fully exposed?

8 A Yes.

9 Q You said when the police arrived, you were standing against
10 a wall?

11 A Yes.

12 Q I'd like for you to draw me a diagram, if you would, just
13 roughly -- I know it's not to scale -- of the Secretary of
14 State's office where the main service desk is at the
15 Secretary of State's office, showing the entrances.

16 (Witness prepares diagram)

17 Q All right. Let's just identify for the record what you've
18 drawn for me here.

19 A Okay.

20 Q You have the outside structure of the Secretary of State's
21 office or the interior walls. You have drawn the squiggly
22 line, which is the service desk where the people were
23 servicing the customers; correct?

24 A Yes.

25 Q You have also drawn a doorway, and outside the doorway is

- 1 **A** I was talking to my mother on the phone.
- 2 **Q** Where were you?
- 3 **A** I was at a gas station.
- 4 **Q** Were you inside, or outside?
- 5 **A** I was outside.
- 6 **Q** You weren't in a vehicle?
- 7 **A** No.
- 8 **Q** And what did the officer do when he approached you?
- 9 **A** I don't recall how contact was initiated.
- 10 **Q** Did he say something to you?
- 11 **A** I don't recall how contact was initiated.
- 12 **Q** Well, what was the nature of the contact?
- 13 **A** I believe someone at the station had called because I had a
- 14 black helmet, mirrored visor, whatnot, and apparently had
- 15 made them a bit nervous. There was an Arby's next-door that
- 16 had been robbed the night before or a few nights prior, so
- 17 they were understandably on edge.
- 18 **Q** Were you armed?
- 19 **A** I was.
- 20 **Q** Is there anytime when you don't carry a weapon?
- 21 **A** There are very few.
- 22 **Q** When would those be?
- 23 **A** When I cannot legally carry.
- 24 **Q** And so what did the Battle Creek officer do when he
- 25 approached you? What did he say?

1 Q When you reviewed your initial Complaint, was there anything
2 about it that you thought was inaccurate?

3 A No.

4 Q As a matter of fact, housekeeping, as part of this
5 litigation, you answered Interrogatories, written questions.
6 Do you recall doing that?

7 A Yes.

8 Q And I'm going to show you what I've had marked as Deposition
9 Exhibit Number 1, and ask if on page 15 of that is your
10 signature.

11 A It is.

12 Q All right. And I assume that when you signed that document,
13 you read the Answers, and found them to be accurate; is that
14 correct?

15 A Yes.

16 Q When Officer Mills entered through the exterior entrance and
17 you observed him, what do you recall Officer Mills doing
18 initially upon entry?

19 A I remember him asking me if I would please step outside, if
20 I would step outside to have a chat, I believe.

21 Q And what was your response to Officer Mills?

22 A My response was that I did not desire to step outside;
23 however, I was willing to talk with him where we were. By
24 this time, my number was almost up. I didn't exactly feel
25 like leaving and losing my position in the cue.

1 Q And how did Officer Mills respond to you when you said you
2 wouldn't go outside, but you would talk inside?

3 A The next thing I remember after stating that I did not wish
4 to go outside is the four officers surrounding me, grabbing
5 me, and forcing me outside.

6 Q So there was just one request, you declined, and you were
7 grabbed by four officers?

8 A I don't know if there was one request, or two, or how many.

9 Q Is it possible you were requested more than once to step
10 outside to talk?

11 A It's entirely possible.

12 Q Fair to state each time you were asked to step outside to
13 talk, you refused; correct?

14 A Yes.

15 Q Were you defensive at that point when you refused the
16 request to step outside?

17 A What do you mean by "defensive"?

18 Q Well, you said earlier -- I asked if you got agitated when
19 people questioned your right to open carry, and you said
20 that you could become defensive. I'd like to know if you
21 became defensive.

22 A Well, without the presence of an attack, it's rather hard to
23 have anything to defend against. So I don't think there was
24 any cause for defense, until the officers grabbed me.

25 Q All right. Were you -- did you ever raise your voice toward

1 forced me out through the exterior entrance.

2 Q When you say "they forced" you out, did you comply?

3 A At that point, I was more worried about keeping my feet
4 under me and keeping upright than compliance or
5 non-compliance.

6 Q Well, you said "they forced" you out. Were you resisting?

7 A Like I said, I was focused on keeping my feet under me to
8 avoid being dragged.

9 Q No, my question is, did you resist the officers' actions?
10 Did you tense up? Did you pull away? Did you try to walk
11 away? Did you make any physical movement, or were you limp?

12 A I was not limp, but I also did not attempt to physically
13 resist leaving once they laid their hands on me.

14 Q So you never physically pulled away from the officers when
15 they laid their hands on you?

16 A Right; at least not for the purpose of avoiding being forced
17 out.

18 Q Did you ever tense your arms up and struggle with the
19 officers?

20 A I don't doubt I did.

21 Q So that would be, "yes," you did; correct?

22 A Yes.

23 Q How long did it take for the officers to get you -- once
24 they laid hands on you, to get you outside of the building?

25 A I'd be comfortable saying that was probably less than a

1 I was informed that I was under arrest.

2 Q Did you comply?

3 A Did I comply with the request to put my hands behind my
4 back?

5 Q Yeah.

6 A I don't believe I was initially compliant with that.

7 Q Rather than complying, what did you do?

8 A Well, I was confused and I sought clarification.

9 Q What did you say or do --

10 A I believe I --

11 Q -- after you were advised you were under arrest and told to
12 put your hands behind your back?

13 A I believe I asked why I was under arrest.

14 Q And then what happened?

15 A Mills explained that I was under arrest for failure to
16 follow a lawful order, this order being that he requested
17 that I step outside very nicely, in his words.

18 Q And did you respond to his statement that you had refused to
19 follow a lawful order?

20 A I asked him whether he had made a request, or a demand.

21 Q And what did he say?

22 A He replied that he had made a request.

23 Q So you didn't perceive that to be a lawful order?

24 A I did not perceive it to be an order at all.

25 Q Did you point out that distinction to Officer Mills?

1 A I did.

2 Q And what was the response?

3 A I believe the response was to put me in the back of the
4 police car and shut the door.

5 Q Were you handcuffed?

6 A I was.

7 Q Outside?

8 A I was handcuffed outside the car.

9 Q The entire time that you were talking to Officer Gross -- or
10 Sergeant Gross --

11 MS. FORBUSH: -- I apologize --

12 Q -- were you handcuffed?

13 A No.

14 Q Only after you were told you were under arrest, you were
15 handcuffed; is that correct?

16 A Yes.

17 Q Is it your testimony that you were injured or sustained any
18 type of physical discomfort at the time you were handcuffed?

19 A When I was handcuffed, Mills pulled my hair, again the
20 officers forced my arms behind my back.

21 Q Were the officers required to force your arms behind your
22 back because you didn't comply with their request?

23 A I'm sorry. Could you rephrase that?

24 Q Well, you said your arms were put behind your back with
25 force.